

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Nobuo SHIMIZU et al.

Group Art Unit: 2873

Application No.: 10/614,213

Examiner: R. Mack

Filed: July 8, 2003

Docket No.: 109214.01

For: A SYSTEM AND METHOD FOR PROVIDING A SUBSTRATE HAVING
MICRO-LENSES

REQUEST FOR RECONSIDERATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the February 19, 2003 Office Action, reconsideration is respectfully requested in view of the following remarks. Claims 1 and 2 are pending.

I. Rejection Under Statutory Double Patenting

Claim 1 is rejected under 35 U.S.C. §101 (statutory double patenting) over claim 28 of U.S. Patent No. 6,618,200. The rejection is respectfully traversed.

Claim 1 recites a second substrate having a plurality of second concaves that is bonded to the first substrate via two kinds of resin layers. On the other hand, claim 28 of U.S. Patent 6,618,200 recites a second substrate having a plurality of second concaves that is bonded to the first substrate via a resin layer.

35 U.S.C. § 101 prevents two patents from issuing on the same invention. "Same invention" means identical subject matter. As set forth in MPEP §804, the question is,

whether there is an embodiment of the invention that falls within the scope of one claim, but not the other. If there is such an embodiment, then identical subject matter is not defined by both claims, and statutory double patenting does not exist.

Here, a product where a second substrate is bonded to the first substrate via a single resin layer would infringe claim 28 of U.S. Patent No. 6,618,200, but not pending claim 1, because claim 1 requires at least two kinds of resin layers. Therefore, identical subject matter is not defined by both claims, and statutory double patenting does not exist. Accordingly, withdrawal of the rejection under statutory double patenting is respectfully requested.

II. Rejection Under Obviousness-Type Double Patenting

Claim 2 is rejected under the judicially created doctrine of obviousness-type double patenting over claim 28 of U.S. Patent No. 6,618,200. The rejection is respectfully traversed.

Applicants submit a Terminal Disclaimer to obviate the obviousness-type double patenting rejection. Accordingly, withdrawal of the rejection under obviousness-type double patenting is respectfully requested.

III. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1 and 2 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,


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Attachment:
Terminal Disclaimer

Date: May 17, 2004

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